

**AVALON CITY COUNCIL MEETING WILL ALSO INCLUDE A MEETING OF THE
CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE
AVALON COMMUNITY IMPROVEMENT AGENCY**

TUESDAY, JULY 7, 2015

4:30 P.M. for Closed Session and 6:00 for the Regular Meeting

CITY HALL COUNCIL CHAMBERS

410 AVALON CANYON ROAD, AVALON

A G E N D A

In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact Denise Radde, City Clerk (310) 510-0220. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35. 102-35.104 ADA Title II). All public records relating to an agenda item on this agenda are available for the public inspection at the time the records are distributed to all, or a majority of all, members of the City Council. Such records shall be available at City Hall located at 410 Avalon Canyon Rd.

CALL TO ORDER / ROLL CALL

CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: 206 East Whittley
Agency Negotiators: Ben Harvey and Scott Campbell
Negotiating Parties: Unknown
Under negotiation: Price and terms of payment.
2. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of Case: People of the State of California, on behalf of the City of Avalon, v. David Lieberman, et al... Case No. 5CN00052
3. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION
Initiation of Litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9:
One case
4. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Manager

PLEDGE OF ALLEGIANCE / INVOCATION

ANNOUNCEMENTS / WRITTEN COMMUNICATIONS

PRESENTATION

C.H.O.I.C.E.S. will be presented with a check from the monies raised from donations given for resident wristbands for the "Up for Whatever" event on May 29-31, 2015.

CITY MANAGER REPORT / CITY ATTORNEY REPORT

COUNCILMEMBER REPORTS / MAYOR REPORT

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ORAL COMMUNICATION

Members of the public may address the City Council at this time. No action will be taken on non-agenda items at this meeting. Speakers should limit comments to three (3) minutes each.

CONSENT CALENDAR

1. Actions
Although the live recording is the official record of public meetings, actions are prepared for the Council's approval.
Recommended Action
Approve actions from the June 16, 2015 and June 29, 2015 City Council meetings.

2. Adopt Ordinance Amending Portions of Avalon Municipal Code Section 9-8.1201 Story Poles
This ordinance was introduced and all further readings waived at the last City Council meeting on June 16, 2015. The Planning Commission held a Public Hearing to discuss the issues with the current regulations regarding story poles at the April Planning Commission meeting, specifically the guidelines for how story poles will be installed and when story poles are required. The Planning Commission adopted a resolution recommending changes to portions of Section 9-8.1201 at the May Planning Commission meeting.
Recommended Action
Adopt ordinance of the City of Avalon amending portions of Avalon Municipal Code Section 9-8.1201 Story Poles.

3. Adopt Ordinance Regarding Regulating E-Cigarettes and Vaporizers
This ordinance was introduced and all further readings waived at the last City Council meeting on June 16, 2015. Avalon Municipal Code Section 6-11.101 defines "smoke or smoking" as "the carrying or holding of a lighted pipe, cigar, cigarette, or any other lighted smoking product or equipment used to burn any tobacco products, weed, plant, or any other combustible substance." E-cigarettes and vaporizers are not used to "burn" any products, it is unlikely the current ordinance applies to their use. In order to ensure E-cigarettes and vaporizers are regulated in the same way as other related smoking products, the City would need to amend its Code.
Recommended Action
Adopt ordinance amending Chapter 11 of Title 6 of the Avalon Municipal Code Regarding the Definition of "Smoke or Smoking".

4. Transfer of Lease – Coyote Joe's Outdoor Dining Patio
Coyote Joe's is requesting to reassign and transfer their current outdoor dining patio lease located at 113 Catalina Street, to Seabring, Inc., a corporation controlled by Ron Bevins and Vic Smith.
Recommended Action
Authorize a lease transfer for the outdoor dining patio at 113 Catalina Street, Coyote Joe's, from owner's Trudy and Joe Saldana, to new owner's Ron Bevins and Vic Smith, Seabring, Inc.

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5. Hospital Lease Amendment Pertaining to Annual Rent
Pursuant to Section 5 of the Lease, Avalon Medical Development Corporation (Tenant) is to pay the City (Landlord) rent in the amount of \$4.50 per square foot per month. The Landlord has agreed to forego collection of rent in this amount but such agreement has not been formalized into an amendment. The Tenant has been paying rent of \$1.00 annually based on City Council approval on September 16, 2003.
Recommended Action
Approve the amendment to the Hospital Lease Agreement between the City and Avalon Medical Development Corporation to formally state the annual rent.

GENERAL BUSINESS

6. Agreement for Supplemental Funding Contribution of the City of Avalon to Southern Edison for the Construction and Installation of an Additional Desalination Unit for Southern California Edison's Santa Catalina Island Water Utility
SCE has proposed the addition of a new desalination plant to be installed adjacent to the existing desalination plant at their Pebbly Beach Generating Station facility which would further treat the effluent from the existing plant, and is anticipated to generate up to an additional 150,000 gallons per day. SCE projects that this additional volume would reduce the drawdown on Thompson Reservoir, and would defer and potentially avoid the imposition of Stage 3. The project schedule is targeted to be installed and operational at the Pebbly Beach Generating Station in the Fall of 2015.
Recommended Action
Approve the agreement for supplemental funding contribution of the City of Avalon to Southern Edison for the construction and installation of an additional desalination unit for Southern California Edison's Santa Catalina Island Water Utility.
7. Consideration of an Appeal of Planning Commission Action Approving a Site Plan Application for the Catalina Island Museum at 217 Metropole
The Planning Commission heard the application for the Site Plan Application at the May 20, 2015 meeting. The proposed project received a Conditional Use Permit for Semi-Public Use. The Planning Commission made the findings that the proposed changes would not change the approved use or add additional uses.
Recommended Action
Uphold the Planning Commission approval of the application for a Site Plan Application for the Catalina Island Museum at 217 Metropole.
8. Ordinance of the City of Avalon adding Chapter 6 of Title 8 to the City's Municipal Code to Create an Expedited Permitting Process for Small Residential Rooftop Solar Systems
Assembly Bill (AB) 2188 (Chapter 521, Statutes 2014), which amends the California Solar Rights Act, requires that, on or before September 30, 2015, every city must adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems.

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Recommended Action

Introduce ordinance adding Chapter 6 to Title 8 to the Municipal Code to create an expedited permitting process for small residential rooftop solar systems; and find that the action does not constitute a project subject to the provisions of the California Environmental Quality Act (CEQA).

9. Consider Ordinance Amending Avalon Municipal Code Regarding Excavation Permits
The Avalon Municipal Code (AMC) currently requires a permit before any person may excavate the surface of any public street, alley, sidewalk, or other public place in the City. Staff has reviewed the existing AMC provisions to determine whether the code is consistent with the current circumstances and reflects the current best practices. As a result of this review, staff is recommending the minor changes contained in the attached ordinance.

Recommended Action

Introduce and waive all readings of an ordinance of the City of Avalon amending Chapter 2 of Title 7 of the Avalon Municipal Code regarding excavation permits.

10. Consideration to Go Out For Bid for the Joe Machado Field Concession Stand Lease
Joe Machado Field Concession Stand is in need of a long-term tenant. Staff proposes to go out for the RFP process with the timeline outlined in the Staff Report.

Recommended Action

Authorize Staff to proceed with advertisement for public bids for the Joe Machado Field Concession Stand Lease.

******The next item in General Business is the “City of Avalon acting as the Successor Agency to the Avalon Community Improvement Agency”**

11. Accord and Satisfaction for the Sales and Disposition Agreement with Catalina Island Museum Society

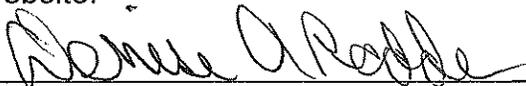
The Avalon Community Improvement Agency previously entered into a Sales and Disposition Agreement with Catalina Island Museum Society to develop an expanded museum, cultural center, and other ancillary uses.

Recommended Action

1. Authorize the Successor Agency to enter into an Agreement to pay \$50,000 for full accord and satisfaction of the Successor Agency’s obligations to reimburse the Catalina Island Museum Society for the design, engineering and construction of a staircase. 2. Authorize payment of \$50,000 upon execution of the accord and satisfaction agreement, and approval of the agreement by the Oversight Board and the Department of Finance pursuant to a Recognized Obligation Payment Schedule.

NOTICE OF POSTING

I, Denise Radde, declare that the City Council Agenda July 7, 2015 was posted on Thursday, July 2, 2015, on the City’s website www.cityofavalon.com, and at City Hall, 410 Avalon Canyon Road. Copies of agendas and staff reports are available at City Hall and on the City website.



Denise A. Radde, City Clerk / Chief Administrative Officer

CITY OF AVALON CITY COUNCIL

MEETING DATE: July 7, 2015
ORIGINATING DEP: City Clerk
PREPARED BY: Denise Radde, City Clerk
SUBJECT: City Council Actions

AGENDA ITEM: 1
CITY MANAGER: BA

RECOMMENDED ACTION(S): Approve City Council Actions from the regular City Council meeting on June 16, 2015 and the Special City Council meeting on June 29, 2015.

REPORT SUMMARY: Although the live recording is the official record of public meetings, actions are prepared for the Council's approval.

FISCAL IMPACTS: N/A

GOAL ALIGNMENT: To be determined.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: N/A

FOLLOW UP ACTION: File Actions in the City Clerk's office.

ADVERTISING, NOTICE AND PUBLIC CONTACT: This item was properly listed on the posted agenda pursuant to the Brown Act.

ATTACHMENTS:
City Council Actions will be provided under separate cover.

CITY OF AVALON CITY COUNCIL

MEETING DATE: July 7, 2015

AGENDA ITEM: 2

ORIGINATING DEPT: Planning

CITY MANAGER: [Signature]

PREPARED BY: Amanda Cook, Planning Director

SUBJECT: Adopt Ordinance of the City Council of the City of Avalon Amending portions of Avalon Municipal Code Section 9-8.1201 Story Poles

RECOMMENDED ACTION(S): Adopt Ordinance of the City Council of the City of Avalon Amending portions of Avalon Municipal Code Section 9-8.1201 Story Poles.

BACKGROUND: This ordinance was introduced and all further readings waived at the June 16, 2015 City Council meeting.

The Planning Commission held a Public Hearing to discuss the issues with the current regulations regarding story poles at the April Planning Commission meeting. Specifically the guidelines for how story poles will be installed and when story poles are required. The Planning Commission adopted a resolution recommending changes to portions of Section 9-8.1201 at the May Planning Commission meeting.

Pursuant to AMC section 9-8.301, the Zoning Code may be amended to impose new regulations. Moreover, AMC section 9-8.302 authorizes the Planning Commission to initiate Zoning Code text amendments.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDING

The City Council finds that this ordinance is exempt from the California Environmental Quality Act ("CEQA") because it does not constitute a project within the meaning of State CEQA Guidelines Section 15378. The amendments described herein have no potential for resulting in physical change to the environment, directly or indirectly, that is capable of ascertainment at the present time. Specifically, the amendment relates to the regulation of story poles only. The City further finds, under State CEQA Guidelines Section 15061(b)(3), that this Resolution is also exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. These amendments do not allow any new activities, but regulate story poles. Staff is hereby directed to file a Notice of Exemption with the Los Angeles County Clerk's Office within five (5) working days.

FISCAL IMPACTS: There is no fiscal impact from the adoption of the Ordinance.

GOAL ALIGNMENT: Its meets the Goal of Council to update outdated, confusing or otherwise incompatible with the policies of todays Municipality ordinances with the Avalon Municipal Code.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: The current story pole requirements will remain in force.

FOLLOW UP ACTION: Publish the adopted Ordinance.

ADVERTISING, NOTICE AND PUBLIC CONTACT: Brown Act. The ordinance will be published as required by law.

ATTACHMENTS:

1. Ordinance

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF AVALON, CALIFORNIA AMENDING
CHAPTER 8 OF TITLE 9 OF THE AVALON MUNICIPAL CODE
REGARDING STORY POLES**

WHEREAS, story poles are a useful tool to assist decision-makers, staff, and the public in the review of development projects;

WHEREAS, actual site improvements are subject to compliance with approved plans, rather than with representations from the story pole installation;

WHEREAS, the City now desires to amend the Avalon Municipal Code to amend the procedures pertaining to story poles;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AVALON DOES ORDAIN AS FOLLOWS:

Section 1. Portions of Section 9-8.1201 is hereby amended to read as follows:

(B) All story poles must be installed or staked not less than fifteen (15) days prior to the date for which the hearing on the application is scheduled.

(C) A story pole plan shall be reviewed by Planning Staff in coordination with the applicant prior to installation of story poles. The plan shall include the following:

(1) Placement of story poles that are sufficient to show the mass, bulk, height, and scale of the structures and measured from a permanent benchmark on or near the proposed project.

(2) Major building corners, finished floor levels, significant elements, length of façade within a specific view shed, ridgelines, and a scale should be shown. It may be necessary to stake more than just the four corners of a structure if significant spans are involved.

(3) Outline of the building footprint with stakes and construction netting or other visible project elements.

(4) Changes proposed in grade, with finished height and elevations, should be shown by color coding the stakes or poles.

(5) Materials proposed to be used for story poles: Story poles should be made of 2x lumber or metal pipe (PVC piping may be allowed in some instances) or other sturdy material and cable, wire or rope of sufficient gage to be visible from off-site. All lumber or pipe should be braced for safety purposes. The cable, wire or rope connections should clearly depict the roofline and ridgelines. Installed story poles, site key, and associated flagging shall be of materials and

method of installation to withstand reasonably foreseeable weather or other site factors for the required duration of display.

(6) For large or complex projects (determined at the discretion of the Planning Director), a story pole plan and legend (11" by 17") will be posted on the project site and the Planning Staff's website to inform viewers about the project.

(7) The plan is to include the date the story poles are proposed to be installed, as well as the length of time the story poles will remain on site.

(D) Notwithstanding the requirements in section (c), the story poles do not have to and should not depict all the articulations of the building.

(E) The story poles shall be installed according to the story pole plan and the following requirements:

(1) The Story pole installation shall be certified by the licensed professional (surveyor, architect, landscape architect, or contractor) who prepared the story pole plan and/or installed the story poles. The certification shall be submitted to staff after installation of the story poles, but before review by the Planning Commission or other review body.

(2) Story poles shall remain in place for a minimum of fifteen (15) days after the review hearing to allow for filing of any appeal per Section 1-4.02. The poles shall also remain in place throughout the duration of the appeal process and until final resolution of the matter by the City Council, unless the City Council has given permission for the poles to be removed during the appeal process.

(3) If story poles are damaged, replacement may be required as directed by the Planning Director.

(F) Staff is required to:

(1) Notify the Planning Commission or City Council if story poles are installed for a project on which they are the decision maker.

(2) Document the installed story poles with photographs.

Section 2. All other paragraphs of Chapter 8 of Title 9 remain unchanged.

Section 3. Severability. If any section, subsection, subdivision, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decisions shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

Section 4. CEQA Exemption. The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15358 (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, the City Council finds that this ordinance is exempt under CEQA pursuant to Section 15061(b)(3) (there exists no possibility that the activity will have a significant adverse effect on the environment) of the CEQA Guidelines because this Ordinance will not cause a change in any of the physical conditions within the area affected by the Ordinance.

Section 5. Certification and Effective Date. The City Clerk of the City of Avalon shall certify the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and/or posted in the manner required by law. This Ordinance shall take effect thirty (30) days after its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Avalon on the ____ day of _____, 2015, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Avalon on this ____ day of _____, 2015, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

Ann H. Marshall, Mayor

ATTEST:

Denise A. Radde, City Clerk

APPROVED AS TO FORM:

Scott Campbell, City Attorney
Best Best & Krieger, LLP

CITY OF AVALON CITY COUNCIL

MEETING DATE: July 7, 2015

AGENDA ITEM: 3

ORIGINATING DEP: Administration

CITY MANAGER: RA

PREPARED BY: Scott Campbell, City Attorney

SUBJECT: Adopt Ordinance Regarding Regulating E-Cigarettes and Vaporizers

RECOMMENDED ACTION(S):

Adopt Ordinance of the City of Avalon, California amending Chapter 11 of Title 6 of the Avalon Municipal Code Regarding the Definition of "Smoke or Smoking".

REPORT SUMMARY:

This ordinance was introduced and all further readings waived at the June 16, 2015 City Council meeting.

Avalon Municipal Code Section 6-11.101 defines "smoke or smoking" as "the carrying or holding of a lighted pipe, cigar, cigarette, or any other lighted smoking product or equipment used to burn any tobacco products, weed, plant, or any other combustible substance." Because E-cigarettes and vaporizers are not used to "burn" any products, it is unlikely the current ordinance applies to their use. In order to ensure E-cigarettes and vaporizers are regulated in the same way as other related smoking products, the City would need to amend Section 6-11.101 to include E-cigarettes and vaporizers within the definition, which in turn will apply all of the City's smoking regulations to these devices and their users.

Recent studies have indicated that E-cigarettes pose similar health risks to other tobacco products, and thus should be regulated in a comprehensive manner consistent with how regulations approach traditional cigarettes. Studies show that e-cigarette use among teenagers has surpassed use of traditional cigarettes, and that mainstream and second hand use of E-cigarettes involves potential exposure to at least 10 chemicals on California's Proposition 65 list of chemicals known to cause cancer, birth defects, or other reproductive harm. A Health Advisory issued by the California Department of Public Health on January 28, 2015, is attached to this staff report.

If the City desires to regulate E-cigarettes and vaporizers in the same manner as other tobacco products as a means of protecting its citizenry from potential deleterious health effects, as well as preserving the public health, safety, and welfare, an amendment to the current definition of "smoke or smoking" is advisable to ensure those products are encompassed.

GOAL ALIGNMENT:

Pursuant to City Council Policy Goal #6 – Updating the Avalon Municipal Code, this change would be made to bring us consistent with the technological advancements in tobacco use, to ensure the City’s policies comport with other municipalities’ ordinances on similar subjects, to make us more responsive to community needs, and to ensure the health, safety, and welfare of our citizenry.

FISCAL IMPACTS:

No impacts to the City Budget.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:

The Avalon Municipal Code will remain as is, with e-cigarettes and vaporizers likely not encompassed within the regulations.

FOLLOW UP ACTION:

Publish adopted ordinance in paper.

ATTACHMENTS

- Proposed ordinance
- California Department of Public Health, Health Advisory, January 28, 2015.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF AVALON,
CALIFORNIA AMENDING CHAPTER 11 OF TITLE 6 OF
THE AVALON MUNICIPAL CODE REGARDING THE
DEFINITION OF "SMOKE OR SMOKING"

WHEREAS, the City of Avalon is concerned about the potential health effects of e-cigarettes and vaporizers on the public;

WHEREAS, the Avalon Municipal Code ("AMC") currently does not include e-cigarettes and vaporizers within its definition of "smoke or smoking";

WHEREAS, the risks of these technologies are comparable to the risks of other products regulated under Chapter 11 of Title 6 of the AMC;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AVALON DOES
ORDAIN AS FOLLOWS:

Section 1. Section 6-11.101(a) is hereby amended to read as follows:

The following words and phrases, as used in this chapter or in any other applicable law regulating smoking, shall have the following meanings:

(a) *Smoke or Smoking.* The carrying or holding of a lighted pipe, cigar, cigarette, e-cigarette, vaporizer, any other lighted smoking product or equipment used to burn any tobacco products, weed, plant, or any other combustible substance, or any other non-combustible technology used for a similar purpose. Smoking includes emitting or exhaling the fumes of any pipe, cigar, cigarette, e-cigarette, vaporizer, any other lighted smoking equipment used for burning any tobacco product, weed, plant, or any other combustible substance, or any other non-combustible technology used for a similar purpose.

Section 2. All other paragraphs of Chapter 11 of Title 6 remain unchanged.

Section 3. Severability. If any section, subsection, subdivision, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decisions shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

Section 4. CEQA Exemption. The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to

Section 15358 (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, the City Council finds that this ordinance is exempt under CEQA pursuant to Section 15061(b)(3) (there exists no possibility that the activity will have a significant adverse effect on the environment) of the CEQA Guidelines because this Ordinance will not cause a change in any of the physical conditions within the area affected by the Ordinance.

Section 5. Certification and Effective Date. The City Clerk of the City of Avalon shall certify the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and/or posted in the manner required by law. This Ordinance shall take effect thirty (30) days after its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Avalon on the ____ day of _____, 2015, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Avalon on this ____ day of _____, 2015, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

Ann H. Marshall, Mayor

ATTEST:

Denise A. Radde, City Clerk

APPROVED AS TO FORM:

Scott Campbell, City Attorney
Best Best & Krieger, LLP

CITY OF AVALON CITY COUNCIL

MEETING DATE: July 7, 2015

AGENDA ITEM: 4

ORIGINATING DEP: Administration

CITY MANAGER: BA

PREPARED BY: Denise Radde, Chief Administrative Officer/City Clerk

SUBJECT: Transfer of Lease – Coyote Joe's Outdoor Dining Patio

RECOMMENDED ACTION(S): Authorize a lease transfer for the outdoor dining patio at 113 Catalina Street, Coyote Joe's, from owner's Trudy and Joe Saldana, to new owner's Ron Bevins and Vic Smith, Seabring, Inc.

REPORT SUMMARY: Coyote Joe's is requesting to reassign and transfer their current outdoor dining patio lease located at 113 Catalina Street, to Seabring, Inc., a corporation controlled by Ron Bevins and Vic Smith. This lease would fall under the same new terms and conditions established by City Council in the Fall of 2014. (418 sq. ft. @ \$3.25/sq. ft. for a term of 10 years)

All outdoor dining leases do not require a transfer fee.

FISCAL IMPACTS: No impact, the lease terms would remain the same with the new tenant.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: Patio area will be removed and become public property again.

FOLLOW UP ACTION: Notify new owners and execute a new lease.

ADVERTISING, NOTICE AND PUBLIC CONTACT: Pursuant to the Brown Act.

ATTACHMENTS: None

CITY OF AVALON CITY COUNCIL

MEETING DATE: July 7, 2015

AGENDA ITEM: 5

ORIGINATING DEP: Finance

CITY MANAGER: RA

PREPARED BY: Chris Woidzik, Interim Chief Financial Officer

SUBJECT: Hospital Lease Amendment Pertaining to Annual Rent

RECOMMENDED ACTION(S): Approve the amendment to the Hospital Lease Agreement between the City (Landlord) and Avalon Medical Development Corporation (Tenant) to formally state the annual rent.

REPORT SUMMARY: Landlord recognizes that the Hospital provides important services for the residents of City and benefits public safety and welfare. Pursuant to Section 5 of the Lease, Tenant is to pay Landlord rent in the amount of \$4.50 per square foot per month. The Landlord has agreed to forego collection of rent in this amount but such agreement has not been formalized into an amendment. The Tenant has been paying rent of \$1.00 annually based on City Council approval on September 16, 2003.

Accordingly, a lease amendment has been prepared to formalize the rent amount the Tenant is to pay the City for rent. Additionally, the rent will remain at \$1.00 and will not increase for annual cost of living adjustments.

GOAL ALIGNMENT: Not aligned.

FISCAL IMPACTS: None. The City has already been receiving the \$1.00 rent amount annually.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: Lease agreement will not reflect current terms.

FOLLOW UP ACTION: Obtain Tenant's signature on the Lease Amendment and file with appropriate staff.

ADVERTISING, NOTICE AND PUBLIC CONTACT: Pursuant to the Brown Act.

ATTACHMENT:

1. Amendment to Lease and Operating Agreement between the Landlord (City) and Avalon Medical Development Corporation

**AMENDMENT TO
LEASE AND OPERATING AGREEMENT BETWEEN THE LANDLORD OF AVALON
AND AVALON MEDICAL DEVELOPMENT CORPORATION**

This Amendment to the Lease and Operating Agreement between the Landlord of Avalon and Avalon Medical Development Corporation (“Amendment”) is made and entered into this 7th day of July 2015 (“Effective Date”) by and between the City of Avalon, a California municipal corporation (“Landlord” or “City”) and the Avalon Medical Development Corporation, a California non-profit corporation (“Tenant”). Landlord and Tenant may be collectively referred to herein as “the Parties.”

RECITALS

- A. Landlord and Tenant are parties to that certain Lease and Operating Agreement (“Lease”), dated September 16, 2003.
- B. Tenant operates the Avalon Municipal Hospital (“Hospital”), which provides medical services to residents of the City and operates in the space leased by the Landlord to the Tenant under the Lease.
- C. Landlord recognizes that the Hospital provides important services for the residents of City and benefits public safety and welfare.
- D. Pursuant to Section 5 of the Lease, Tenant is to pay Landlord rent in the amount of \$4.50 per square foot per month. The Landlord has agreed to forego collection of this rent but such agreement has not been reduced to writing.
- E. Landlord and Tenant desire to amend the terms of the Lease Agreement to reduce the annual rent to \$1.00 and to release the Tenant from annual cost of living adjustments to rent.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the Parties hereto agree as follows:

1. INCORPORATION OF RECITALS.

The above recitals are incorporated by this reference as though fully set forth herein.

2. TERMS.

2.1 Term. Section 5 of the Lease shall be amended to read:

“Section 5. Rental

5.1 Tenant shall pay Landlord rent for the Premises, without deduction or offset, in the amount of \$1.00, which shall become due and payable in advance of each lease year on January 1.

5.2 Payment Procedures. Rent under subsection 5.1 above shall be made annually, not later than January 1 of each year, except as otherwise agreed to in writing by Landlord and Tenant. Rent for any period during the term hereof which is less than one year shall be \$1.00. Rent shall be payable in lawful money of the United States to Landlord at the address stated herein or to such other persons or at such other places as Landlord may designate in writing.”

3. ADDITIONAL PROVISIONS.

3.1 Entire Agreement. This Amendment and the Lease Agreement constitutes the entire agreement between the parties.

3.2 Amendments and Waivers. This Amendment may not be changed, modified, waived, discharged or terminated except by a writing signed by the Parties.

3.3 Applicable Law; Venue. The Lease, as modified by this Amendment, and the rights and remedies of the parties hereunder shall be governed by the laws of the State of California. The parties agree that the proper forum for resolution of matters concerning the Lease Agreement, as modified by this Amendment, and the rights and remedies of the parties thereunder, shall be the Superior Court County of Los Angeles, State of California.

3.4 Severability. If any provision hereof is finally determined by a court of competent jurisdiction to be invalid or unenforceable, the other provisions hereof shall remain in full force and effect in such jurisdiction.

3.5 Successors and Assigns. This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

3.6 Counterparts. This Amendment may be executed by the Parties in counterparts, each of which shall be an original and all of which counterparts shall together constitute one and the same agreement.

3.7 Defined Terms. Terms used herein with initial capitals shall be defined terms either as defined in this Amendment or as defined in the Lease Agreement.

(signature page to follow)

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized officers as of the first date above written.

CITY OF AVALON

Ann Marshall, Mayor

ATTEST:

By: _____
_____, City Clerk

APPROVED AS TO FORM:

By: _____
Best Best & Krieger LLP

AVALON MEDICAL DEVELOPMENT
CORPORATION

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

CITY OF AVALON CITY COUNCIL

MEETING DATE: July 7, 2015

AGENDA ITEM: 6

ORIGINATING DEP: Administration

CITY MANAGER: [Signature]

PREPARED BY: Ben Harvey, City Manager

SUBJECT: Agreement for Supplemental Funding Contribution of the City of Avalon to Southern Edison for the Construction and Installation of an Additional Desalination Unit for Southern California Edison's Santa Catalina Island Water Utility

RECOMMENDED ACTION(S): Approve the agreement for supplemental funding contribution of the City of Avalon to Southern Edison for the construction and installation of an additional desalination unit for Southern California Edison's Santa Catalina Island Water Utility.

REPORT SUMMARY: Pursuant to Southern California Edison's (SCE) current California Public Utility Commission (CPUC) water tariffs, SCE is required to impose mandatory water use restrictions and reductions based on the water level in the Thompson Reservoir (also referred to as the "Middle Ranch Reservoir", or "MRR"). In accordance with the CPUC tariffs, SCE currently has imposed Stage 2 mandatory conservation and rationing (Stage 2). SCE has advised the City of Avalon that they expect to impose Stage 3 mandatory conservation and rationing (Stage 3) based on projected water levels in Thompson Reservoir as of September or October 2015.

If Stage 3 is implemented, it will require a 50% reduction in water use from customers' baseline usage, which is anticipated to have a significant adverse impact on residents and businesses located in the City of Avalon, as there have already been significant reductions in water use. To address this, SCE has proposed the addition of a new desalination plant to be installed adjacent to the existing desalination plant at their Pebbly Beach Generating Station facility which would further treat the effluent from the existing plant, and is anticipated to generate up to an additional 150,000 gallons per day (projected output of the new plant).

SCE projects that this additional volume would reduce the drawdown on Thompson Reservoir, and would defer and potentially avoid the imposition of Stage 3. The new desalination plant is self-contained and under an expedited project schedule is targeted to be installed and operational at the Pebbly Beach Generating Station in the Fall of 2015. In order to facilitate the prompt installation and operation of the new desalination plant to defer and potentially avoid Stage 3, it is recommended that the City of Avalon provide supplemental funding to SCE for the new desalination plant in the amount of \$500,000. SCE and the City intend to seek governmental funding available for drought-related and other water infrastructure improvements to help reduce the net cost of the new desalination plant that would otherwise ultimately be borne by Catalina Island water customers who pay water rates.

GOAL ALIGNMENT: Fresh Water Resources.

FISCAL IMPACTS: \$500,000 for Fiscal Year 15/16 from the General Fund. The City of Avalon and Southern California Edison are jointly pursuing grant funding via the State of California's Emergency Drought Relief and Proposition 1 (the so-called "Water Bond"). It is anticipated that most, if not all, of the City's \$500,000 contribution towards the purchase of the desalination unit will be offset by grant funding.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: Edison may not pursue the additional desalination unit and the City of Avalon will enter Phase 3 water rationing, requiring a fifty-percent reduction in baseline water consumption. Correspondingly, the Avalon economy will be impacted, resulting in an inevitable trickle-down reduction in City revenues.

FOLLOW UP ACTION: On behalf of the City of Avalon, direct the City Manager to enter into the agreement for supplemental funding contribution of the City of Avalon to Southern Edison for the construction and installation of an additional desalination unit for Southern California Edison's Santa Catalina Island Water Utility.

ADVERTISING, NOTICE AND PUBLIC CONTACT: Pursuant to the Brown Act.

ATTACHMENT: Agreement for Supplemental Funding Contribution of the City of Avalon to Southern Edison for the Construction and Installation of an Additional Desalination Unit for Southern California Edison's Santa Catalina Island Water Utility will be provided under separate cover.

CITY OF AVALON CITY COUNCIL

MEETING DATE: July 7, 2015

AGENDA ITEM: 7

ORIGINATING DEPT: Planning

CITY MANAGER: BA

PREPARED BY: Amanda Cook, Planning Director

SUBJECT: Consideration of an Appeal of Planning Commission Action
Approving a Site Plan Application for the Catalina Island Museum
at 217 Metropole

RECOMMENDED ACTION(S): Uphold the Planning Commission approval of the application for a Site Plan Application for the Catalina Island Museum at 217 Metropole. No specific grounds for the appeal were noted.

BACKGROUND: The Planning Commission (the "Commission") heard the application for the Site Plan Application at the May 20, 2015 meeting.

CONDITIONAL USE PERMIT: The proposed project received a Conditional Use Permit for Semi-Public Use. The Planning Commission made the findings that the proposed changes will not change the approved use or add additional uses.

CEQA: A Mitigated Negative Declaration (MND) was adopted for the project. Pursuant to Section 15162, additional environmental review will not be required. On the basis of substantial evidence in the light of the whole record, no substantial changes are proposed in the project that will require major revisions of the previously approved negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The Planning Commission found that the adopted MND and Mitigation Monitoring Plan will still apply.

COASTAL DEVELOPMENT PERMIT: This project received a Coastal Development Permit. The proposed changes do not intensify the use of the structure; thus an amended CDP is not required. The Planning Commission made the finding that the original findings to support the CDP will still apply.

During the meeting, Planning Director Cook read Mr. Malan's letter objecting to the height variance, communication tower and additional square footage. It was noted for the record that the application did not include a height variance or communication tower.

Motion was made by Commissioner Ponce, second by Commissioner Montano to adopt the original CEQA findings, and approve the Site Plan with staff recommendations . Ayes (6): Commissioner Ponce, Commissioner Montano, Chairman Fertig, Commissioner Dunn,

Commissioner Lavelle and Commissioner Huart, Opposed (0): None; Abstain (0): None; Absent (1): Vice Chairman Martin.

Location Aerial View :

☆ Areas where square footage was added.



AMC Sec. 1-4.01 Right to Appeal.

(a) Except as otherwise specifically provided in this Code, any person excepting to the denial, suspension, or revocation of a permit applied for or held by him pursuant to any decision made by any appointive board of the City pursuant to any of the provisions of this Code may appeal in writing to the Council by filing with the City Clerk a written notice of such appeal setting forth the specific grounds thereof.

Mark Malan submitted his request to appeal the action of the Planning Commission on June 14, 2015, within the 15 day appeal period. No specific grounds for the appeal were noted.

FISCAL IMPACT: There is no fiscal impact

GOAL ALIGNMENT: Not aligned.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: The Planning Commission's decision will be overturned, and the project would have to be stopped until the square footage could be removed.

FOLLOW UP ACTION: None

ADVERTISING, NOTICE AND PUBLIC CONTACT: Pursuant to the Brown Act.

ATTACHMENTS:

- Planning Commission staff report
- Appeal Letter

CITY OF AVALON CITY COUNCIL

MEETING DATE: July 7, 2015

AGENDA ITEM: 8

ORIGINATING DEP: Administration

CITY MANAGER: RA

PREPARED BY: Scott Campbell, City Attorney

SUBJECT: Ordinance of the City of Avalon adding Chapter 6 of Title 8 to the City's Municipal Code to Create an Expedited Permitting Process for Small Residential Rooftop Solar Systems

RECOMMENDED ACTION(S):

Introduce Ordinance adding Chapter 6 to Title 8 to the Municipal Code to create an Expedited Permitting Process for Small Residential Rooftop Solar Systems; and find that the action does not constitute a project subject to the provisions of the California Environmental Quality Act (CEQA).

REPORT SUMMARY:

Assembly Bill (AB) 2188 (Chapter 521, Statutes 2014), which amends the California Solar Rights Act, requires that, on or before September 30, 2015, every city must adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems. The purpose of the law is to further the State policy of promoting and encouraging the installation and use of solar energy systems by limiting obstacles to their use, and by minimizing the permitting costs of such systems. The ordinance must require that the City adopt a checklist of all requirements with which small residential rooftop solar energy systems must comply to be eligible for expedited review. Pursuant to AB 2188, the City must substantially conform its permitting process, including the checklist(s) and standard plans, with the most current version of the California Solar Permitting Guidebook. AB 2188 also requires that the City make the expedited permitting application available on the City's website. Applications that meet all of the checklist requirements must be approved administratively, pursuant to a nondiscretionary permit, by City staff. A use permit, subject to conditions of approval, may only be required in limited circumstances where the application could have a specific adverse impact on public health or safety.

AB 2188 further requires that the City accept electronic submission of the permit documents, and the use of electronic signatures on such documents, in lieu of wet signatures, unless the City makes findings in the ordinance that the City is unable to process electronic signatures. The City has not made such findings, and will accept electronic signatures.

Finally, AB 2188 restricts the number of City inspections for small residential rooftop solar systems to one inspection, unless the system fails the inspection.

GOAL ALIGNMENT: N/A

FISCAL IMPACTS: There is no anticipated fiscal impact as the costs to implement the expedited permitting process will be recovered through existing building permit fees.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: City will be out of compliance with State law if the Ordinance is not adopted by September 30, 2015.

FOLLOW UP ACTION: Adoption of the ordinance and publish in paper.

ADVERTISING, NOTICE AND PUBLIC CONTACT: Pursuant to the Brown Act.

ATTACHMENTS: Proposed ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF AVALON, STATE OF CALIFORNIA, ADDING CHAPTER 6 OF TITLE 8 TO THE MUNICIPAL CODE, TO PROVIDE AN EXPEDITED, STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

WHEREAS, the City Council of the City of Avalon seeks to implement AB 2188 (Chapter 521, Statutes 2014) through the creation of an expedited, streamlined permitting process for small residential rooftop solar energy systems; and

WHEREAS, the City Council wishes to advance the use of solar energy by all of its residents; and

WHEREAS, it is in the interest of the health, safety and welfare of the residents of the City to provide an expedited permitting process for small residential rooftop solar systems to assure the effective deployment of solar technology, in accordance with the requirements of AB 2188.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AVALON DOES ORDAIN AS FOLLOWS:

Section 1. OPERATIVE PROVISIONS. Chapter 6 of Title 8 of the City of Avalon Municipal Code, is added to read:

CHAPTER 6: SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

Section 8-6.01 Applicability and Purpose.

This Section applies to the permitting of all small residential rooftop solar energy systems in the City. The purpose of this Section is to create an expedited, streamlined solar permitting process that complies with the Solar Rights Act, as amended by AB 2188 (Chapter 521, Statutes 2014), to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This Section encourages the use of small residential rooftop solar energy systems by removing unreasonable barriers, minimizing costs to property owners and the City, and expanding the ability of property owners to install small residential rooftop solar energy systems. This Section allows the City to achieve these goals while protecting the public health and safety.

Section 8-6.02 Definitions.

The definitions set forth below shall be applicable to the provisions in this Section.

“Electronic submittal” means the utilization of one or more of the following:

- i. Email;
- ii. The Internet;
- iii. Facsimile.

“Official” means the Building Official of the City.

“Small residential rooftop solar energy system” means a solar energy system which meets all of the following:

- i. Is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal;
- ii. Conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City, and all state and City health and safety standards;
- iii. Conforms to all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability;
- iv. Is installed on a single or duplex family dwelling;
- v. The panel or module array does not exceed the maximum legal building height as defined by the City.

“Solar energy system” has the meaning set forth in paragraph (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.

“Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

Section 8-6.03 Small Residential Rooftop Solar System Requirements.

- a. A solar energy system that qualifies as a small residential rooftop solar energy system, as defined in this Section, shall be processed in accordance with the terms of this Section.
- b. A small residential rooftop solar energy system shall meet applicable health and safety standards and requirements imposed by the state and the City, local fire department or district.
- c. The Official shall, prior to September 30, 2015, adopt an administrative, nondiscretionary expedited review process for small residential rooftop solar energy systems, which shall include standard plan(s) and checklist(s). The checklist(s) shall

set forth all requirements with which small residential rooftop solar energy systems must comply with to be eligible for expedited review.

- d. The small residential rooftop solar system permit process, standard plan(s), and checklist(s) shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the California Solar Permitting Guidebook adopted by the Governor's Office of Planning and Research.

Section 8-6.04 Applicant Obligations.

- a. Prior to submitting an application, the applicant shall be responsible to:

- i. Verify, to the applicant's reasonable satisfaction, through the use of standard engineering evaluation techniques that the support structure for the small residential rooftop solar energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the building foundation; and

- ii. At the applicant's cost, verify to the applicant's reasonable satisfaction, using standard electrical inspection techniques that the existing electrical system including existing line, load, ground and bonding wiring as well as main panel and subpanel sizes are adequately sized, based on the existing electrical system's current use, to carry all new photovoltaic electrical loads.

Section 8-6.05 Electronic Processing.

- a. All documents required for the submission of an expedited small residential rooftop solar energy system application shall be made available on a publicly accessible City website.
- b. Electronic submittal of the required permit application and documents by electronic means shall be made available to all small residential rooftop solar energy system permit applicants. The City's website shall specify the permitted method of electronic document submission.
- c. An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.

Section 8.6.06 Application Review.

- a. An application that City staff determines satisfies the information requirements contained in the City's checklist(s) for expedited small residential rooftop solar system processing, including complete supporting documents, shall be deemed complete.
- b. If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation

- required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.
- c. After City staff deems an application complete, City staff shall review the application to determine whether the application meets local, state, and federal health and safety requirements.
 - d. Unless the Official determines a use permit is warranted, City staff shall issue a building permit or other nondiscretionary permit within a reasonable period of time after receipt of a complete application that meets the requirements of the approved checklist, standard plan and this Section.
 - e. The Official may require an applicant to apply for a use permit if the Official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decision may be appealed to the Planning Commission.
 - f. The City shall not condition approval of an application on the approval of an association, as defined in Section 4080 of the Civil Code.

Section 8-6.07 Use Permit.

- a. If a use permit is required, the Official may deny an application for the use permit if the Official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decision may be appealed to the Planning Commission.
- b. Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.
- c. "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City on another similarly situated application in a prior successful application for a permit. The City shall use its best efforts to ensure that the selected method, condition, or mitigation does not significantly increase the cost of the system or decrease its efficiency or specified performance in excess of the following:
 - i. For Water Heater Systems or Solar Swimming Pool Heating Systems: an amount exceeding 10 percent of the cost of the system, but in no case more than one thousand dollars (\$1,000), or decreasing the efficiency of the solar energy system by an amount exceeding 10 percent, as originally specified and proposed.
 - ii. For Photovoltaic Systems: an amount not to exceed one thousand dollars (\$1,000) over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10 percent as originally specified and proposed.

Section 8-6.08 Inspections.

- a. Only one inspection shall be required and performed by the Building Department for small residential rooftop solar energy systems eligible for expedited review.
- b. The inspection shall be done in a timely manner.
- c. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this Section.

Section 2. CEQA. This Ordinance does not commit the City to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act.

Section 3. SEVERABILITY. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance, which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable. This Ordinance amends, adds to and deletes (as applicable) sections of the Avalon Municipal Code.

Section 4. EFFECTIVE DATE. This Ordinance shall take effect and be in force 30 days after passage.

Section 5. PUBLICATION. The City Clerk is directed to publish this Ordinance within the manner and in the time prescribed by law.

INTRODUCED at a regular meeting of the City Council of the City of Avalon on the ____ day of _____, 2015, by the following vote:

AYES:
 NAYS:
 ABSENT:
 ABSTAIN:

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Avalon on this ____ day of _____, 2015, by the following vote:

AYES:
 NAYS:
 ABSENT:
 ABSTAIN:

 Ann H. Marshall, Mayor

ATTEST:

Denise A. Radde, City Clerk

APPROVED AS TO FORM:

Scott Campbell
Best Best & Krieger, LLP

CITY OF AVALON CITY COUNCIL

MEETING DATE: July 7, 2015
ORIGINATING DEP: Public Works
PREPARED BY: Dennis Jaich, Interim Director of Public Works
SUBJECT: Consider Ordinance Amending Avalon Municipal Code Regarding Excavation Permits

AGENDA ITEM: 9

CITY MANAGER: BJA

RECOMMENDED ACTION(S):

Introduce and waive all readings of an ordinance of the City of Avalon amending Chapter 2 of Title 7 of the Avalon Municipal Code regarding excavation permits.

REPORT SUMMARY:

The Avalon Municipal Code currently requires a permit before any person may excavate the surface of any public street, alley, sidewalk, or other public place in the City. A permit is also required to erect telephone, electric, light or other poles in the public right-of-way. The AMC contains standards and conditions for obtaining and performing work under such permits, including the condition to deposit funds with the City to guarantee restoration of the public improvements. Staff has reviewed the existing AMC provisions to determine whether the AMC is consistent with the current circumstances and reflects the current best practices. As a result of this review, staff is recommending the minor changes contained in the attached Ordinance. The modifications will better protect the City from bearing the costs of repairs to the City's right-of-way. In particular, the Ordinance would allow public utilities to submit a fee to the City so that the City may perform restoration work itself, applying the fee to the cost of the work. Under the current provisions of the AMC, public utilities do not have to make a deposit or pay the City a fee prior to excavating. Rather, the City bills the utility after the repair work is done for any work a public utility does not properly perform. The Ordinance also enables the Council to establish a standard deposit amount by resolution.

GOAL ALIGNMENT: Update the Avalon Municipal Code.

FISCAL IMPACTS:

There is no immediate impact to the general fund. The Ordinance may result in cost savings by better protecting the City from having to bear the costs of repairs resulting from work performed in the public right-of-way.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:

The AMC will remain the same. A deposit will still be required prior to performing excavation work, but the City will not have the option of charging an advance fee to public utilities to perform restoration work on their behalf or require such utilities to deposit the estimated cost of repairs prior to the work being commenced.

FOLLOW UP ACTION:

Adoption of the Ordinance.

ATTACHMENTS:

Ordinance

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF AVALON,
CALIFORNIA AMENDING CHAPTER 2 OF TITLE 7 OF
THE AVALON MUNICIPAL CODE REGARDING
EXCAVATION PERMITS**

WHEREAS, the City of Avalon (“Avalon”) has regulations for the excavation of any public street, alley, sidewalk, or other public place within the City, located at Title 7, Chapter 2 (Excavations) of the Avalon Municipal Code (“AMC”); and

WHEREAS, the circumstances surrounding excavations and best practices for the excavation, inspection and restoration of public streets, alleys, sidewalks or other public places, have changed considerably since the City’s excavations ordinance, generally codified in Chapter 2 of Title 7 of the Avalon Municipal Code, was last significantly amended; and

WHEREAS, the City has undertaken a review of the existing excavations ordinance to ensure that the ordinance is consistent with current circumstances and reflects current best practices regarding the excavation, inspection and restoration of public streets, alleys, sidewalks, or other public places; and

WHEREAS, the review of the City’s ordinance revealed that certain updates and amendments are necessary to reflect current best practices regarding excavations and to better protect the City from bearing the cost of street repairs.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AVALON DOES ORDAIN AS FOLLOWS:

Section 1. The recitals set forth above are incorporated herein.

Section 2. **Section 7-2.01 is hereby amended to read as follows:**

It shall be unlawful for any person to make, or cause or permit to be made, any excavation in or under the surface of any public street, alley, sidewalk, or other public place within the City, or to erect any telegraph, telephone, electric light, or other pole in any such public street or public place within the City, without first obtaining a permit in writing from the Director of Public Works and paying a fee or making a deposit as governed by Section 7-2.03 to cover the costs of inspections and restoring such public street, alley, sidewalk, or other public place to its original condition. Such fee or deposit shall also cover any estimated City administrative costs and expenses in connection therewith.

Section 3. **Section 7-2.03 is hereby retitled “Fee or Deposit Required” and amended to read as follows:**

Each applicant shall be required to pay to the Director of Public Works a deposit to guarantee restoration of the street, alley, right-of-way or public place to be excavated to as good or better a condition as it was in prior to the excavation. Such sum shall be set by the Director of Public Works based upon the reasonable estimate of such restoration costs or as determined

annually by City Council resolution. The Director of Public Works may permit a general deposit to be paid by any person intending to make a series of excavations in any public street, alley, right-of-way or other public place in an amount sufficient to guarantee the restoration thereof.

In the event that the excavation is performed by a public utility, the applicant may pay a fee to allow the City to complete the restoration process. The fee will be based upon the actual cost of restoration. In the alternative, the public utility applicant may deposit with the Director of Public Works an amount to cover the costs of restoration of the street, alley, right of way, or public place to be excavated to as good and perfect a condition as prior to the excavation should the public utility elect to undertake the restoration instead of allowing the City to complete restoration. The retention and return of such deposit shall be governed by the terms of Section 7-2.07.

Section 4. Section 7-2.04 is hereby amended to read as follows:

The permit shall specify the name of the person to whom the permit is issued, the street, alley, or other public place and the particular part thereof to be excavated, the extent of such excavation, and the time within which the excavation shall be made and the street restored to its former condition.

The permit shall also contain a plan drawn on a scale of no less than one (1") inch equal to ten (10') feet showing the location of the excavation, dimensions of the trench to be dug and all public improvements within the vicinity of the trench. The permit shall also contain the proposed starting and end dates of the excavation work.

No such permit shall be transferable.

Section 5. Section 7-2.06 is hereby amended to read as follows:

The work for which such excavation is made shall be prosecuted with due diligence and so as not to obstruct the street and travel thereon more than is actually required to perform the work. In the event the work is not completed within the time specified in the permit, or within the time to which the permit may be extended by the City Manager, or is prosecuted so as to obstruct the street or travel thereon unnecessarily, or in the event such street, alley, or public place is not restored to its former condition within the time fixed in the permit, the Director of Public Works shall notify the person to whom the permit was issued that the terms of such permit have not been complied with and demand compliance with such terms within five (5) days after the service of such notice. If the work is not completed to the satisfaction of the Director of Public Works, the Director of Public Works may do such work as may be necessary to repair such excavation and restore the street or other public place or part thereof excavated to as good condition as the same was in before such excavation was made. The City shall deduct the cost of repairs from the deposit or require the applicant to pay any additional fees to cover the repairs.

Section 6. Section 7-2.07 is hereby amended to read as follows:

The person by whom any excavation shall be made in any public street, alley, or other public place shall guarantee the work of refilling and the restoration for a period of one (1) year after completion of such excavation against all defects in workmanship or materials. In the event that the excavation is undertaken by a public utility who elects to make a deposit under Section 7-2.03, the deposit shall be retained for the longer of: (i) one (1) year after such excavation is complete, or (ii) if repairs are necessary and performed, six (6) months after the repairs are completed.

Whenever within such one (1) year warranty period any part of the work or place needs repairs, the Director of Public Works shall serve on the person by whom the excavation was made a written notice stating the repairs necessary and requiring such repairs to be made within five (5) days after the service of such notice.

The City may proceed to do such work after five (5) days' notice in the event the repairs are not done to the satisfaction of the Director of Public Works. The Director of Public Works shall deduct the cost of any work done or repairs made by the City from any and all deposits then on hand. The balance of any deposit shall be returned to the depositor after the expiration of the aforementioned six (6) months from the completion of the repairs of all excavation by such depositor or after the completion of the same by the Director of Public Works assuming no further repairs are needed, whichever is longer.

Section 7. Section 7-2.13 is hereby amended to read as follows:

The work shall be performed in compliance with the City's Standard Details for Backfill and AC Replacement for Utility Installations.

It shall be the responsibility of the permittee to perform all excavation and backfill work at their sole expense.

Section 8. All other paragraphs of Chapter 2 of Title 7 remain unchanged.

Section 9. Severability.

If any section, subsection, subdivision, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decisions shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

Section 10. CEQA Exemption.

The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15358 (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) of the CEQA

Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, the City Council finds that this ordinance is exempt under CEQA pursuant to Section 15061(b)(3) (there exists no possibility that the activity will have a significant adverse effect on the environment) of the CEQA Guidelines because this Ordinance will not cause a change in any of the physical conditions within the area affected by the Ordinance.

Section 11. Certification and Effective Date.

The City Clerk of the City of Avalon shall certify the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and/or posted in the manner required by law. This Ordinance shall take effect thirty (30) days after its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Avalon on the 7th day of July, 2015, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Avalon on this ____ day of _____, 2015, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

Ann H. Marshall, Mayor

ATTEST:

Denise A. Radde, City Clerk

APPROVED AS TO FORM:

Scott Campbell, City Attorney
Best Best & Krieger, LLP

CITY COUNCIL

MEETING DATE: July 7, 2015
ORIGINATING DEP: Recreation
PREPARED BY: Jennifer Monroe, Recreation Coordinator
SUBJECT: Consideration to Go Out For Bid for the Joe Machado Field Concession Stand Lease

ADENDA ITEM: 10
CITY MANAGER: 

RECOMMENDED ACTION(S): Authorize Staff to proceed with advertisement for public bids for the Joe Machado Field Concession Stand Lease.

REPORT SUMMARY: The City Council awarded a three year lease agreement for the Concession Stand property at Joe Machado Field in June 2014. The awardee operated the Concession Stand from June 2014 to May 2015, but ultimately requested to be release from their contract effective June 1, 2015. The City was able to enter into a two-month temporary contract from July 1 to August 31, 2015 to maintain operations at the location during the busy summer season. However, a long term contract must be awarded for operations beyond August 31, 2015.

Staff proposes the RFP process to commence immediately to appoint a long-term tenant with the timeline outlined below (all dates 2015):

- Advertisement: July 10, 17, 24
- Proposals due: Friday, July 31, 5 pm
- Interviews: Week of Aug. 10
- City Council to award contract: Aug. 18
- Awardee to commence service: Sept. 1

GOAL ALLIGNMENT: Enhance Recreation Opportunities

FISCAL IMPACTS: Revenue generated with the lease of the property of \$4 per lineal square foot or 8% of monthly gross receipts, whichever is higher, was included in the current FY 15-16 budget.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: The City of Avalon cannot proceed in appointing a Lessee for the Joe Machado Field Concession Stand property, and will ultimately not be able to provide concession service and realize revenue.

FOLLOW UP ACTION: Implement the proposed RFP schedule.

ADVERTISING, NOTICE AND PUBLIC CONTACT: This item was properly listed on the posted agenda.

- ATTACHMENTS:**
1. Proposed RFP
 2. Proposed Lease

CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE ACIA

MEETING DATE: July 7, 2015

AGENDA ITEM: 11

ORIGINATING DEP: Public Works

CITY MANAGER: [Signature]

PREPARED BY: Dennis Jaich, Interim Director of Public Works

SUBJECT: Accord and Satisfaction for the Sales and Disposition Agreement with Catalina Island Museum Society

RECOMMENDED ACTION(S):

That the Successor Agency Board authorize the Successor Agency to enter into an Agreement to pay \$50,000 for full accord and satisfaction of the Successor Agency's obligations to reimburse the Catalina Island Museum Society for the design, engineering and construction of a staircase.

That the Successor Agency authorize payment of \$50,000 upon execution of the accord and satisfaction agreement, and approval of the agreement by the Oversight Board and the Department of Finance pursuant to a Recognized Obligation Payment Schedule.

REPORT SUMMARY:

The Avalon Community Improvement Agency previously entered into a Sales and Disposition Agreement with Catalina Island Museum Society to develop an expanded museum, cultural center, and other ancillary uses. The Agreement requires the Community Improvement Agency – and now the Successor Agency – to reimburse the Museum for the actual costs associated with reconstruction of the staircase on the property. The accord and satisfaction agreement would instead require the Successor Agency to pay a flat payment of \$50,000 in lieu of all reimbursement obligations. This amount is based on an engineering estimate of the costs to perform the work, as opposed to the actual costs of construction. In addition to providing a fair payment amount and a more timely resolution of the debt owed, the one-time payment protects the Successor Agency from additional unforeseen costs that may arise during construction. The accord and satisfaction agreement therefore is likely to result in a lower overall payment.

GOAL ALIGNMENT:

Community Cooperation

FISCAL IMPACTS:

The Successor Agency will make a one-time payment of \$50,000, provided the Oversight Board and the Department of Finance approve the payment on a ROPS.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:

The Successor Agency will continue to be subject to reimburse the actual costs associated with the design, engineering and construction of the staircase. The actual costs may exceed \$50,000.

FOLLOW UP ACTION:

None

ATTACHMENTS:

Agreement for Accord and Satisfaction.